

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

MARVELLOUS KEENE, : **DEATH PENALTY CASE**

Petitioner, : Case No. C-1-00-421

vs. : JUDGE BECKWITH

BETTY MITCHELL, WARDEN, : MAGISTRATE JUDGE MERZ

Respondent. :

**PETITIONER'S MOTION TO CONTINUE DUE DATE FOR CERTIFICATE OF
APPEALABILITY**

Petitioner Marvellous Keene hereby requests an extension of sixty (60) days to file his Certificate of Appealability in this matter. Counsel for Respondent has indicated that it will not oppose Petitioner's Motion.

MEMORANDUM IN SUPPORT OF MOTION

The primary reason for Petitioner's request is based upon the number of issues and the complexity of the issues that must be addressed in the Certificate of Appealability. In addition, Petitioner's counsel have either upcoming trials, or numerous depositions and other commitments, set in the near future. Attorney Stepter has a trial set in the Franklin County Court of Common Pleas in the case of Karen Mosley v. State Teachers Retirement System, Case No. 02CVH-03-2748, presently set for May 31, 2005. That case has been dismissed and re-filed once before (by previous counsel) and was continued once more when Mr. Stepter filed a Notice of Appearance. During the two months thereafter, Mr. Stepter has had several other important work commitments, including scheduled depositions.

Attorney Marshall is scheduled to be out of town May 23 through May 26, 2005, and then has depositions that must be conducted on June 3, 7, 8; testifying as an expert witness on June 9 in Marion County, Ohio; depositions that must be conducted on June 13, 15, 16, 17; and will be out of town from Wednesday, June 22 until July 5, 2005.

For these reasons, Petitioner respectfully requests the extension.

Respectfully submitted,

s/John S. Marshall

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed electronically on May 23, 2005. Notice of this filing will be sent to all parties by operation the Court's electronic filing system. Parties may access this filing through the Court's system.

s/John S. Marshall

John S. Marshall